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SUPREME COURT, U. S.

No. 1330

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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1967.

SHERMAN H. SKOLNICK and PETER S. SARELAS,
Appellants,

vs.

WALTER H. MOSES, PAUL B. YOULE, CHARLES E. HERZOG, JOHN F. McBRIDE, MORRIS L. SIMONS, LESTER ASHER, and THE CHICAGO BAR ASSOCIATION,
Appellees.

On Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

JURISDICTIONAL STATEMENT.

SHERMAN H. SKOLNICK,
9800 South Oglesby Avenue,
Chicago, Illinois 60617,
ESsex 5-5741,
Appellant, Pro Se.

PETER S. SARELAS,
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Chicago, Illinois 60602,
CEntral 6-1442,
Appellant, Pro Se.

St. Louis Law Printing Co., Inc., 411-15 N. Eighth St., 63101. CEntral 1-4477.

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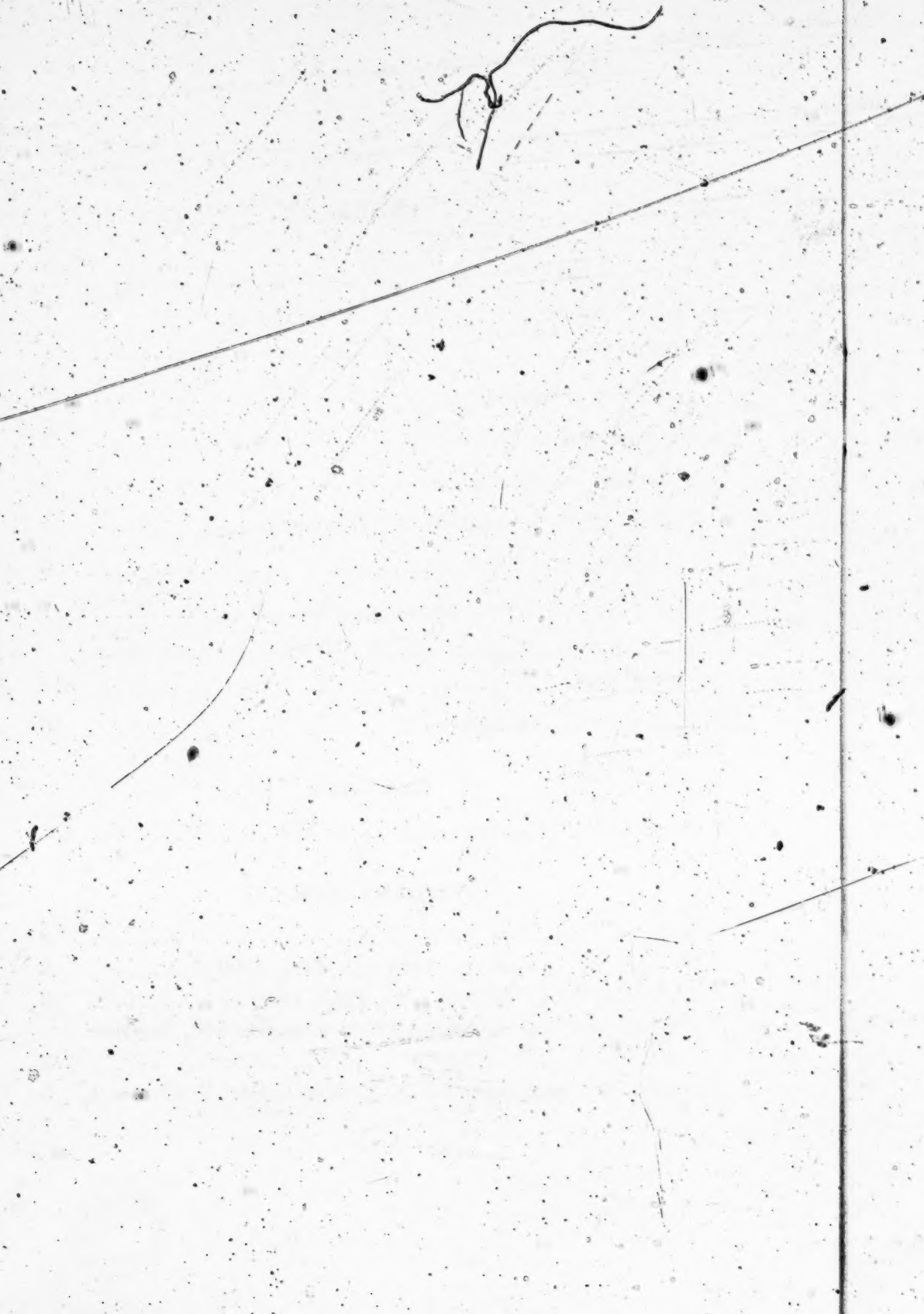

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JURISDICTIONAL STATEMENT.

OPINION BELOW.

The opinion with order of the three-judge district court panel, dismissing the case, has not yet been reported and is contained herein as Appendix "A", infra. Rec. 109-114.

JURISDICTION.

On December 20, 1967, the three-judge district court panel entered an Order dismissing the Complaint and quashing all process which may have ensued thereupon.

Rec. 108, 114. Appellants' motions to vacate were denied, January 5, 1968, and January 30, 1968. Rec. 155-156, 162-163. A notice of appeal to this court was filed by appellants on February 19, 1968. Rec. 169. Jurisdiction of this Court to review on direct appeal the decision of the three-judge district court is conferred by 28 U. S. C. A., Section 1253.

QUESTIONS PRESENTED.

1. Whether Section 101.59 of Chapter 110, Illinois Revised Statutes, 1965, by empowering appellees to act as a super court, or board of inquisition, with power to interfere with and inquire into the private litigation of appellants, and all other private litigants and other persons similarly situated, is unconstitutional as invading their federal constitutionally protected rights, privileges, and immunities.

2. Whether Section 101.59, by empowering appellees to interfere with, and inquire into, the private litigation of appellants and other private litigants and persons similarly situated, is unconstitutional, as depriving them of the equal right to sue, be parties, give evidence, and the right to the full and equal benefit of all laws and proceedings for the security of persons and property.

3. Whether Section 101.59 is unconstitutional by empowering appellees to invade the federally protected rights of the appellants, and other private litigants, not to have their private litigation interfered with, reviewed, or re-adjudicated by appellees purporting to be empowered as a super-court or board of inquisition, outside of, or over and above, the duly constituted state and federal court system.

4. Whether the filing in the Illinois state and federal courts of legal papers by appellants acting for themselves as private litigants and their prosecution of court actions

affecting their own person, property, and reputation, can be the foundation for appellees, acting as a super court, to accuse or prosecute appellants.

STATUTE INVOLVED.

Section 101.59 of Chapter 110 of Illinois Revised Statutes, 1965:

(Said Section being extensive is hereinafter set forth as Appendix "B", infra.)

STATEMENT.

a.) The Complaint (Appendix "C", infra).

This action was brought under 42 U. S. C. A., Sections 1981, 1983, and 1988; and 28 U. S. C. A., Sections 1343 (3), and 2201 and 2202. Rec. 8. Appellants' Complaint seeks a declaration of the unconstitutionality of Section 101.59 of Chapter 110, Illinois Revised Statutes, 1965. Appellants' suit is a class action brought on behalf of themselves and all private litigants and persons similarly situated. Rec. 8.

Appellants have set forth in their complaint, with highly specific fact allegations, that appellees, purporting to be empowered under Section 101.59, are and have been acting as a super court, or board of inquisition, with power to inquire into, interfere with, influence the outcome of, and review and re-adjudicate their private litigation, over and above the duly constituted state and federal court system. Rec. 8-13. Appellants have set forth that this interferes with their equal right to sue, be parties, give evidence, and their equal right of access to courts to prevent or redress wrongs and enforce rights. Rec. 9-12.

Appellants sought by motion in the lower court supported by affidavit, to bring to the court's attention that appellees purport, moreover, to have the power, by state subpoena, to interfere even with the instant case while it was pending in the district court. Rec. 22-24, 25.

Appellants' fact allegations stand admitted by appellees' motion to strike and dismiss complaint. Rec. 29, 49-60.

Both the appellees and the three-judge panel sought to side-step appellants' Complaint by dealing with Section 101.59 as if it were merely a "disbarment" statute, thereby ignoring the undisputed facts that the rights and capacity of private litigants were here involved and that no attorney malpractice is involved in the instant case. The three-judge district court panel in its "Memorandum Opinion" of December 20, 1967 (Appendix "A", infra), erroneously recites the nature of the instant case, by statements directly opposite the record or not supported by the record. Appellants, by motions to vacate judgment and expunge or withdraw opinion sought unsuccessfully to correct this. Rec. 116-128; Rec. 155-156. Rec. 160-161; Rec. 162-163.

b.) Proceedings Below.

During the course of this litigation in the district court, there was no hearing on the merits of appellants' claim, although appellants made a written offer of proof. Rec. 107. Whether appellants can state a claim upon which relief can be granted, requires a hearing on the merits. **Dombrowski v. Pfister**, 380 U. S. 479, at 497, 85 S. Ct. 1116, at 1126.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL.

The questions presented are substantial because they raise basic issues as to whether Illinois, by an overly broad and vague law, can purport to empower its agents to in-

terfere with state and federal court private litigation, and thereby take away from Illinois residents and citizens the equal right to access to state and federal courts, and the equal right to sue, be parties, give evidence, and similar federally protected rights.

A state law that purports to empower its agents to act as a super court, or board of inquisition, over and above the duly constituted state and federal court system, opens the way to infamous abuses of the rights of citizens. It is appellants' position that a state or federal court party-litigant or witness has federal constitutionally protected rights, privileges, and immunities, similar to that of members of either House of Congress.

The Federal Constitution provides that members of either House of Congress:

> "* * * for any Speech or Debate in either House, **they shall not be questioned in any other place.**" Article I, Sec. 6, clause 1 (Emphasis added).

The filing in a state or federal court of legal papers by a party-litigant acting on his own behalf and his prosecution of legal actions affecting his own person, property, and reputation, or the statements made by a witness in court, cannot be the foundation of any accusation or prosecution, action, or complaint, in any other court or place whatsoever. Of what avail and effect are final court judgments if another body, purporting to be a super court, can re-open private litigation and inquire into the motives of the private litigants and make accusations against the private litigants or seek to prosecute them, as appellees are doing?

The action of the appellees puts a "chill" on the federal constitutional rights of appellants, within the meaning of **Dombrowski v. Pfister**, 380 U. S. 479.

CONCLUSION.

For the reasons above stated, it is submitted that the Court has jurisdiction and that this appeal should be heard.

Respectfully submitted,

SHERMAN H. SKOLNICK, Appellant, Pro Se;

PETER S. SARELAS, Appellant, Pro Se.